

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON EDUCATION

Call to Order: By **CHAIRMAN GAY ANN MASOLO**, on January 24, 2001
at 3:03 P.M., in Room 137B Capitol.

ROLL CALL

Members Present:

Rep. Gay Ann Masolo, Chairman (R)
Rep. Kathleen Galvin-Halcro, Vice Chairman (D)
Rep. Bob Lawson, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Gary Branae (D)
Rep. Nancy Fritz (D)
Rep. Verdell Jackson (R)
Rep. Hal Jacobson (D)
Rep. Larry Lehman (R)
Rep. Jeff Mangan (D)
Rep. John Musgrove (D)
Rep. Alan Olson (R)
Rep. Ken Peterson (R)
Rep. Butch Waddill (R)
Rep. Allan Walters (R)
Rep. Merlin Wolery (R)

Members Excused: Rep. Norma Bixby (D)
Rep. Joe McKenney (R)

Members Absent: None.

Staff Present: Connie Erickson, Legislative Branch
Nina Roatch, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 268, 1/15/2001; HB 272,
1/15/2001
Executive Action: HB 268

HEARING ON HB 268

Sponsor: REPRESENTATIVE RICK RIPLEY, HD 50, Wolf Creek

Proponents: Bill Cooper, OPI
Loran Frasier, SAM
Inga Nelson, MEA-MFT
Dave Puyear, MREA

Opponents: None

Opening Statement by Sponsor:

REPRESENTATIVE RIPLEY said he was presenting the bill at the request of School Administrators of Montana (SAM). This will allow more local control to local school boards. There is no fiscal note necessary. At present, school boards are required to put out for bid any supplies, construction, or goods that amount to more than \$15,000. This bill amends the amount of \$15,000 to \$25,000. Counties and cities are required to bid anything from \$20,000 to \$50,000, depending on what they are bidding. The bill puts the school districts on the same level as counties and cities. Local districts should be able to make these decisions.

Proponents:

Dave Puyear, MREA, said his group stands in strong support of the bill.

Loran Frasier, SAM, said, a few years ago he stood before this committee and asked for \$15,000. A member of the committee told him he hadn't asked for enough. With prices changing so dramatically the past few years, the committee member was correct. Costs have gone up, bidding costs have gone up and getting a bid ready takes from four to six weeks, which is a delay for some of the immediate things a school needs. School boards can handle the \$20,000 amount very well. The bill does not prohibit any school board from bidding everything. Some school boards bid every purchase.

Inga Nelson, MEA-MFT, said she would like to state their support for this bill.

Bill Cooper, OPI, said he agrees with the testimony given and OPI supports the bill.

Opponents: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

REPRESENTATIVE RIPLEY said that the time lapse requirement after the advertising can take from six to eight weeks and if the project needs attention that can be very cumbersome for the school.

EXECUTIVE ACTION ON HB 268

Motion/Vote: REP. LEHMAN moved that HB 268 DO PASS. Motion passed unanimously.

HEARING ON HB 272

Sponsor: REPRESENTATIVE OLSON, HD 8, Roundup

Proponents: Jerry Giles, Fairfield, Montana
Julie Mellan, Montana Christian Coalition
Sharlene Snoddy, Helena
Larry Brewster
REPRESENTATIVE KEN PETERSON
George Harris
David Hein, Billings
SENATOR BOB DE PRAU

Opponents: Inga Nelson, MEA-MFT
Loran Frasier, SAM
Kathy Jorgenson

Informational: Bill Cooper, OPI

Opening Statement by Sponsor:

REPRESENTATIVE OLSON said he was presenting **HB 272**, a bill for an act entitled: "an act allowing a student to be released from school for one class period per day for religious instruction and amending Section 20-1-308, MCA." This bill changes existing law. Existing law allows two hours a week with the approval of the school district. It also includes, "with the approval of the school district." A school district may provide for released time for religious training. What he Proposes to do with this bill is change the two hours a week to one standard class period per school day. The bill says no public money may be used nor can the school facilities be used. He will have an amendment coming for executive session. The two hours per week will stand

for the elementary school districts and one standard high school period a day will be substituted for high school districts.

Proponents:

Larry Brewster, Former President of MSBA, Billings, said the bill allows more flexibility for the local district to allow students who wish to participate in released religious time instruction to have the opportunity during a regular class time. The current statute is unworkable for him. In Billings they amended their policy to allow what this bill says, but because of the present statute they were unable to make it work. This is different from the Wednesday nights that most districts allow for church night. This bill is to cover religious instruction. It allows the school board local control and makes it possible for them to work with religious groups and parents who want to take advantage of this time. It retains local control and does not affect any ANB funding.

SENATOR BOB DE PRATU, SD 40, Whitefish, said he was not representing his district. He believes this is a good policy. Other schools in other states have this policy and they find it very effective. The students that take advantage of this opportunity are students who are not problem students. Generally, they are serious students who work hard and have a desire to better themselves and put in more than an average amount of time in studies of all types. It is a positive choice.

Jerry Giles, Fairfield, Montana, said court decisions have precluded teaching of Christian values, based on the Ten Commandments. The courts have consistently upheld the constitutionality of released time, saying students can leave the campus at specified times to be instructed in moral values in a setting which would not violate the separation of church and state. He believes that is what the legislature had in mind when they passed the statute that is currently on the books. He has been intrigued by the concept of released time, but believes there is a small flaw in the way the law is written. **HB 272** would correct that flaw. Most of our high school students attend each of their classes five times a week, Monday through Friday. Trying to fit two class periods into a five-class period format is like trying to fit a square peg in a round hole. Passage of this bill puts it into a format that is workable and manageable for both students and school districts.

Sharlene Snoddy, Helena, said she has taught an early morning religious class for seven years and has seen hundreds of children come through this program. She feels the students gain greatly and come out of the program more rounded and better able to meet

the challenges of the world. This bill would open up the possibilities for those, who up until this time, have had to choose between an early morning religious class or sports, music, or other activities which practice or meet in the morning. Education is an important issue for this legislative year, as it should be. Here is an opportunity to better educate our students without affecting the bottom line. As it becomes more and more competitive to get scholarships and get into universities, our students not only need good grades in sound classes, they need outside activities. Because of these needs, our students have had to give up their religion classes in order to take part in the activities. This bill will give them the opportunity to do both.

David Hein, Billings, said the bill gives an equal opportunity in terms of religious instruction to young people. The amendment is a minor one. This bill allows young people to have the same amount of time for religious study as any other class they are taking.

Julie Mellam, Montana Christian Coalition, said the bill is a good way for people to practice and be taught religion. It is a great way to give parents a choice for their children.

George Harris, said he has had three of five children take part in the early morning religious class. The way the present law is written it just won't work, but this bill will allow the flexibility for them to have one hour a day and they would have to do the early morning class. This bill gives flexibility.

REPRESENTATIVE KEN PETERSON, HD 20, Billings, said this option would add an additional dimension to a child's life and personality. It is optional and allows the school district to make the choice.

Bob Vogel, MSBA, submitted written testimony. **EXHIBIT (edh19a01)**

Lance Melton, MSBA, said his organization is in favor of the bill.

Opponents' Testimony:

Loran Frasier, SAM, said his organization needs some reasonable discussion about this bill with the committee. If he was a principal in an elementary school and this bill became part of his program, he would want to know what was to be dropped in his program so that there could be excused time for religious instruction. An elementary teacher already has a full day and to lose a period would make his day even more complicated. We have

programs such as the ag program, the fire fighters program, the emergency medical people, DARE program, all of these are great programs, but his question is: Do you want teachers to teach reading, and writing in our schools and have the full day or, do you want to turn it over to all the community activities? He feels the present bill handles the situation where a lot of communities get together and designate one night a week for religious activities so the child does not have to choose between an activity and religious instruction. Many school districts are on that wave length right now. He does see taking another hour out of the schedule for elementary and middle school programs. He wanted it known that he would have a hard time with the amendment for the high school students. It creates a pull out program, in his eyes. The committee must decide what it wants school districts to do. If this bill passes, the committee is taking away time that it is holding the school accountable for learning. He cannot support a bill that is taking away instruction time, although for a good purpose.

Inga Nelson, MEA-MFT, said the bill says one class period a day, which hour will it be? Some parents might request eight to nine, other two to three, etc. This bill isn't clear whether each child is allowed an individual time or if the school district would set a set time. If every child is allowed their own hour a day, imagine the catch up work for the teacher. It would cause scheduling problems especially in the high school. Classes are not always the same length and not scheduled every day. What has happened to tradition Sunday School, was her last question.

Kathy Jorgenson, Great Falls, said society is very diverse and this bill will open up a whole can of worms. What will the school district do with the Muslims, people of the Hindu religion, etc.? This may be a dangerous thing.

Questions from Committee Members and Responses:

REPRESENTATIVE MUSGROVE had a question for **REPRESENTATIVE OLSON**. How would this impact time on task? **REPRESENTATIVE OLSON** said that would be decided by the board of trustees. How is time on task handled with football, basketball, etc.? He has a lot of faith in trustees and knows they are capable of working out a schedule. He believes in local governments and local control. **REPRESENTATIVE MUSGROVE** said he wanted to address the problem mentioned by Ms. Jorgenson. What would happen if there was a bright student in school and saw this release time published and decided to form a seminar on reflection? How could this bill stop that kind of activity? **REPRESENTATIVE OLSON** said he saw nothing in the bill that would prevent that. That is a local control issue.

REPRESENTATIVE LEHMAN had a question for the **SPONSOR**.

Conceptually, **REPRESENTATIVE LEHMAN** has no problem with released time, especially if the amendment reads to include high school students and not elementary students. He sees the scheduling problem as horrendous. Who makes the decision about when the release time occurs, the parents or the school? **REPRESENTATIVE OLSON** said the administration and staff would work it out.

REPRESENTATIVE LEHMAN asked if there was a disparity in the bill in line four it says a student will be allowed and in line twelve it says the school district may. **REPRESENTATIVE OLSON** referred the question to **Connie Erickson**. She said if the bill was stating the student had to be released, it would say required instead of allowed. She sees no conflict. **REPRESENTATIVE LEHMAN** said he would prefer the school board be the body allowed, rather than the student allowed. **Connie Erickson** said it didn't make any difference which way it was stated, because both meant the same thing. The title of the bill can be changed if there are more amendments. Generally an amendment is not written just for the title. **REPRESENTATIVE OLSON** said that change would be acceptable to him.

REPRESENTATIVE MANGAN had a question for the **SPONSOR**. He is trying to understand how current law works. Currently a district can allow religious instruction release time across the board for every student or does the parent have to come in and specifically request it? **REPRESENTATIVE OLSON** said he imagined that if this was to come up at a local district and it didn't have anything in policy, they most likely would. The first time this would come up, it would come to the board and depending on how it worked out it would be addressed. **REPRESENTATIVE MANGAN** said that basically they would develop an overall policy regarding a time release program. **REPRESENTATIVE OLSON** said, from his experience, that is how it would be handled. **REPRESENTATIVE MANGAN** said, for each specific pupil, the district would need a written request from the parent or guardian as it is written into law? **REPRESENTATIVE OLSON** replied, that is correct. **REPRESENTATIVE MANGAN** asked, no student would be denied? Would that be correct? The **SPONSOR** said without sitting on that board of trustees, he couldn't answer that. **REPRESENTATIVE MANGAN** asked if he could see any reason why a student would be denied? **REPRESENTATIVE OLSON** said that kind of situation had never come up when he was on the board of trustees. He said the board policy and past precedence would have a bearing on the decision.

REPRESENTATIVE MANGAN had a question for **Larry Brewster**. Would a request ever be denied? **Mr. Brewster** said it would depend on the board structured their policy, but that certainly could happen. They could put limits on the release time, like how far a student

could travel from the school or the policy might require the student have transportation, etc. Are you asking if they would deny it because of the faith of the student? **Mr. Brewster** said no, it would have to be arbitrary. **REPRESENTATIVE MANGAN** asked, could they request time off for religious study, would that be enough information to the district? **Mr. Brewster** said, yes.

REPRESENTATIVE WADDILL asked **Mr. Brewster** why should we allow school time for religious instruction? **Mr. Brewster** said a lot of groups are using early morning time for instruction at present. The struggle that a lot of kids have is to participate in extracurricular activities these days, most of the activities require an early morning practice and an after school practice. What this does is allow kids to take the religious instruction as if it was an elective and he envisions it being available to the student at the same time each day. It would not withdraw the student from a class. It would simply supplant a class. The student would choose this over another elective. **REPRESENTATIVE WADDILL** said, wouldn't that mean a student was sacrificing some academic instruction in order to get the religious instruction? **Mr. Brewster** said, yes, they would have to make that choice. It generally wouldn't affect sports, but it might affect a band or art course. In some school districts it might not work for them. If the school had a six period day in the high school, it might not work. The district would have an option.

REPRESENTATIVE WALTERS had a question for the **SPONSOR**. He said he was reminded of a couple of stories. He was thinking of the man who scoops up a handful of sand and when he tries to squeeze it, a lot of the sand falls out of his hand. The other story is of Moses and Pharaoh when Moses said, "Let my people go." When Pharaoh doesn't do as Moses asks, Moses and the people take off. He thinks of his community and if the legislature passes this bill and his district does not participate, are parents going to take their children and move to a district that does participate and then his school is going to lose ANB. **REPRESENTATIVE OLSON** said he guessed it could happen, but he likes to be an optimist about things and, on the other hand, he sees children that are being home schooled coming back into the system.

REPRESENTATIVE JACKSON had a question for **George Harris**. It has been discussed that there is a value in giving up academic classes and supplanting them with this elective religious class. He asked **Mr. Harris** why he thinks this should be an elective. **Mr. Harris** said his children didn't give up academic classes. They didn't have the flexibility of this idea. This bill gives them flexibility and more choice in their school program. His children took their religious instruction early in the morning before school started. **REPRESENTATIVE JACKSON** asked, what's the

bottom line, what did the kids get out of religious instruction before the school day started? **Mr. Harris** said they are better citizens, they are better contributors to society, they learned how to be a participating part of society, they learned how to respect other people's views, and how to overcome self indulgence that would help them be better people.

REPRESENTATIVE MUSGROVE asked **Mr. Cooper** if the districts that are receiving attendance-based Hutterite students would have a problem with this bill. **Mr. Cooper** said he did not see any connection between the bill and the Hutterite Colonies. Part of the day of a Hutterite colony school is probably devoted to religious instruction. He didn't know if that was part of the educational day or not. **REPRESENTATIVE MUSGROVE** continued, the concept is that they take their religious instruction apart from the educational day, but what he wanted to know is, would this allow the Hutterite students to take time out of the educational day. **Mr. Cooper** said he believes the bill would allow them to do that.

REPRESENTATIVE LEHMAN asked what the accreditation standards for a high school student to graduate are. **Mr. Cooper** said accreditation standards require that a student who graduates from high school must have 20 credits. **REPRESENTATIVE LEHMAN** asked how many hours per week or per day are students required to be in school in grades 9 - 12 or 7 - 12? **Mr. Cooper** said, to receive funding, a student is required to be in school a minimum of one hour a day and for partial ANB reimbursement a minimum of two hours a day. That is the time requirement. A school needs to be open a minimum of 180 days a year and so many hours of instruction. **REPRESENTATIVE LEHMAN** said that is his question, how many hours does a school have to be open per day? There are some exceptions as some schools have early out on Friday. **Mr. Cooper** referred the question to **Connie Erickson**. She said according to state laws, "school day pupil instruction must be two hours for kindergarten, at least four hours for grades one through three, and at least six hours for grades four through twelve." "The number of hours in one school day may be reduced at the discretion of the trustees if the total number of pupil instruction hours in the school year is not less than the minimum aggregate hours that are required."

REPRESENTATIVE GALVIN-HALCRO asked **Mr. Cooper** how many credits are required for a college prep program? **Mr. Cooper** said he believes that the university requires a certain amount, which may be 24 credits.

REPRESENTATIVE GALVIN-HALCRO had a question for **REPRESENTATIVE OLSON**. If a student is released early or allowed to come late,

who is responsible for the student during that time period?

REPRESENTATIVE OLSON said if the parents asked for the early or late time, then he believe the parents are responsible.

REPRESENTATIVE GALVIN-HALCRO said she wanted to be clear on the question. When she releases students for extracurricular activities, those activities are almost always related to the school and the school is still responsible for the students because the students are in the school's care. If the school is going to release students during the normal school day for religious instruction, she doesn't see anywhere in the bill where the responsibility for the student is released from the school back to the parent. She said she can see nothing in the bill that says if the student is released during the school day for religious instruction, the school district is not responsible for the student during that time. **REPRESENTATIVE OLSON** said if the parent asks for the release, the parent is responsible. He said if it would make her more comfortable with the bill, he will write an amendment that releases the school district of the responsibility for the time the student is gone. The present law allows for release time and there is nothing addressing the responsibility issue in statutes.

{Tape : 1; Side : B}

REPRESENTATIVE GALVIN-HALCRO said another concern is that when a student is released for any activity, a student is not receiving instruction and is falling behind and not receiving mastery to the subject being taught. Where is the student going to get the mastery and who is held responsible for the student getting it? The student cannot get to the instruction and receive it in one period, so there will be more time involved. **REPRESENTATIVE OLSON** said a student will only receive one period and must use it for instruction and travel and this is all at the discretion of the trustees.

The **CHAIR** asked **Mr. Cooper**, currently when a student is released, for a Boy Scout parade, etc., who is responsible for that student. **Mr. Cooper** said there is a statement in local parentis that says a school district is responsible for a student from portal to portal, from home to school and from school to home. There is an assumption on the part of the school district that their responsibility stops, but it is believed that the law is still on the books. **Connie Erickson** said she believes that **Mr. Cooper** is correct. She also believes that if the parent sends a written request for released time then the parent is responsible. **REPRESENTATIVE PETERSON** said that would be his thought on the released time also.

REPRESENTATIVE WOLERY said many groups such as home school, private schools, etc., have criticized the public school system for focusing on extra curricular activities and now the committee is considering giving up 15% more of the day which will further weaken our ability to teach in public schools. He asked

REPRESENTATIVE OLSON to respond to his thoughts. **REPRESENTATIVE OLSON** said the school gets criticized for everything. We don't educate our kids. We don't spend money correctly. Teachers don't get paid enough. Teachers get paid too much. He has come to the conclusion that the criticism is going to keep coming. To take one standard class period, with a parental request, with school board approval, we need to pass this bill. We will receive criticism anyway. It is a good bill, IT doesn't cost a dime, it is constitutional and it is good for Montana.

Closing by Sponsor:

REPRESENTATIVE OLSON said, he believed he had already given his closing.

ADJOURNMENT

Adjournment: 4:12 P.M.

REP. GAY ANN MASOLO, Chairman

NINA ROATCH, Secretary

GM/NR

EXHIBIT (edh19aad)